

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

ARMSTEAD RISK MANAGEMENT, INC.,
Debtor.

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)
) Chapter 11

) Case No. 19-41489-ess
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ARMSTEAD RISK MANAGEMENT’S OPPOSITION TO 461 MYRTLE AVENUE
FUNDING CREDITOR’S PLAN (Docket No.)

TO THE HONORABLE ELIZABETH STRONG
UNITED STATES BANKRUPTCY JUDGE:

Armstead Risk Management, Inc. by and through its counsel hereby submits this response to 461 Myrtle Avenue Funding, LLC (Myrtle Funding LLC) the application for confirmation of its proposed plan of Liquidation pursuant to section 1125 of title 11 of the United States Code (the “Bankruptcy Code”) the above-captioned matter.

RESPONSE

Myrtle Funding a secured creditor of debtor filed application for an order approving disclosure statement and for a hearing to consider its proposed plan of liquidation with the United States Bankruptcy Court of the Eastern District of New York pursuant to 1121(c)(2), 1125, 1126, 1128 and 1129 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 3017, 3018 and 3020 of the Federal Rules of Bankruptcy Procedure, and Rules 3017-1, 3018-1 and 3020-1 of the Local Bankruptcy Rules of the United States Bankruptcy Court of the Eastern District of New York. I

Debtor commenced this single asset real estate case on March 14, 2019. Myrtle Funding is secured creditor and holder of a first mortgage lien on Debtor's real property.

Debtor's properties consist of two adjoining multifamily, mixed-used real properties located at 459-461 Myrtle Avenue, Brooklyn, NY 11205 (Block 1889, Lots 89 & 90). Myrtle Funding is owed approximately \$3,795,916.27.

On August 5, 2019, Myrtle Funding a secured creditor of debtor filed an application for an order approving disclosure statement and for a hearing to consider its proposed plan of liquidation with the United States Bankruptcy Court of the Eastern District of New York. In support of its applications, Myrtle Funding stated that it consulted with MYC & Associates the proposed auctioneer under Myrtle Funding's plan and that based on Myrtle Funding's understanding of the market, it believes that debtor's properties are valued at more than 4.1 million dollars but not at the 5.5 million ascribed by debtors. Myrtle Funding would like to wait until the time of action to attain the true value of debtor's properties notwithstanding the potential harm to the interest of the debtor. As of the time moment of the drafting of this objection, the debtor is currently seeking to have the property appraised in an attempt to ascertain said property value. However, notwithstanding the same a review of the sale similar properties on Zillow.com suggests that debtor's valuation is more or less accurate. As such, there is "adequate protection" to the creditor.

In addition, the debtor is able to make payments at this time to offset any growing exposure to Myrtle Funding. In light of the fact that Myrtle Funding has not demonstrated that there is not adequate protection to secure its interest and the creditors' of the debtor as there is sufficient equity the aforementioned properties to cover the debtor's creditor's claims, Myrtle Funding proposed plan should be denied. Furthermore, Myrtle Funding Plan does not satisfy the "best interests" test set forth in section 1129

(a)(7) of the Bankruptcy Code. To confirm the Plan, the Court must find that the proponent has demonstrated by a preponderance of the evidence that the Plan satisfies the applicable provisions of section 1129 of the Bankruptcy Code.

WHEREFORE, debtor respectfully requests that the Court deny Myrtle Funding's motion in the entirety, together with such other and further relief as the Court deems just and proper.

Dated: August 29, 2019
New York, NY

/s/
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